

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**EUGENE DIVISION**

**Stephen Earl Church,**

Plaintiff,

v.

**Commissioner Social Security  
Administration,**

Defendant.


Case No. 6:14-cv-01373-YY

**ORDER**

**YOU, Magistrate Judge:**

Based on a review of the record and an analysis of the factors in *Gisbrecht v. Barnhart*, 535 US 789 (2002), plaintiff's Unopposed Motion for Attorney Fees Under 42 USC § 406(b) [#31] is GRANTED in the amount of \$9,626.41, which is roughly 21% of the retroactive benefits awarded, minus the Equal Access to Justice Act (EAJA) fees already awarded to plaintiff's attorney (\$4,052.66). Plaintiff's attorney may retain only the larger of the EAJA fees and § 406(b) fees. Therefore, when issuing payment of the § 406(b) fees, defendant is directed to subtract the amount previously paid to plaintiff's attorney pursuant to the EAJA and pay only the net balance, minus any user fee. Any amount withheld (including the EAJA fee offset) after all administrative and attorney fees are paid should be released to plaintiff.

DATED May 4, 2016.

  
Youlee Yim You  
United States Magistrate Judge